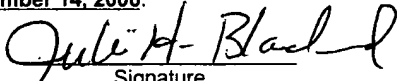
**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Attorney Docket No.

**VIGN1330-1**

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Signature  
**JULIE H. BLACKARD**  
Typed or Printed Name

Application No.

**09/682,655**

Filed:

**10/02/2001**

First Named Inventor:

**Igor A. Shmulevich**

Art Unit

**2151**

Examiner

**Patel, Ashokkumar B.**

All pending claims 1-25 of the above-identified application have been twice rejected. Applicant requests review of the rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ Applicant/Inventor
- ☐ Assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ **Attorney or agent of record.**  
**Registration No. 50,000**

☐ Attorney or agent acting under 37 CFR 1.34  
Registration No. \_\_\_\_\_

  
Signature

**Katharina Wang Schuster**

Typed or Printed Name

**512-637-9229**

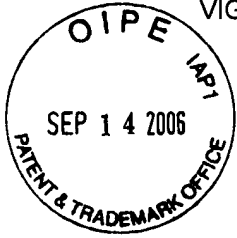
Telephone Number

**September 14, 2006**

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required. See below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.



### PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant respectfully requests a formal review of the legal and factual basis of the rejections in the present application, filed 10/02/2001. In the last Office Action dated June 14, 2006 ("Office Action"), the Examiner again rendered Applicant's previous arguments moot and rejected all pending claims 1-25 under 35 USC § 102(e) in view of a new reference "Richard" (US Patent App. Pub. No. US 2002/0073119 A1). The clear legal and factual deficiencies in the rejections will be discussed below with reference to independent claims: 1, 10, 19, 22, and 25.

Claim 1 recites a method for generating a plurality of service templates for the conversion of unformatted data to markup language files, comprising:

- examining non-display-formatted service data corresponding to a selected service to be displayed on one or more target devices or classes of devices;

- defining in a master style template a plurality of blocks of data corresponding to markup languages and presentation capabilities of the target devices or classes of devices;

- creating a plurality of service templates using one or more blocks of data selected from the master style template; and

- configuring each service template for converting the non-display-formatted service data into markup language data adapted to be displayed on one of the target devices or classes of devices.

To anticipate Claim 1, Richard must describe each and every element as set forth in Claim 1, including "non-display-formatted service data." The Examiner rejected this limitation without basis over Richard's teaching on how to collect heterogeneous data from sources 410, 420, 430. Factually, Richard's heterogeneous data (Richard, *para.* 58) does not meet the definition of "non-display-formatted service data" provided by Applicant (Specification, *para.* 34). Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings"). Thus, Richard's heterogeneous data cannot legally anticipate "non-display-formatted service data" under 35 USC § 102(e).

The Examiner's rejection as to Claim 1 improperly omitted several terms. For example, although the term "corresponding" is recited twice in Claim 1, the rejection omitted the term and ignores the correlation between "non-display-formatted service data" and "a selected service to be displayed on one or more target devices or classes of devices" as well as the correlation between "a plurality of blocks of data" and "markup languages and presentation capabilities of the target devices or classes of devices," as recited in Claim 1.

The Examiner also improperly omitted the term "service" as recited in "examining non-display-formatted *service* data corresponding to a selected *service* to be displayed on one or more target devices or classes of devices," "creating a plurality of *service* templates using one or more blocks of data selected from the master style template," and "configuring each *service* template for converting the non-display-formatted service data into markup language data adapted to be displayed on one of the target devices or classes of devices." Thus, the Examiner's rejection was factually and legally deficient.

The Examiner also made several factual errors in the rejections. Richard's XF conversion script is *prima facie* different from the claimed master style template. Richard's XF conversion script is composed of a list of executable template procedures (Richard, *para.* 88). The master style template contains "a plurality of blocks of data corresponding to markup languages and presentation capabilities of the target devices or classes of devices," as recited in Claim 1. Richard's XF conversion script is not a style template and no part of it is *selectively* used to *create* data conversion templates.

Furthermore, the conclusive statement on top of page 5 of the Office Action is factually erroneous. Since the Examiner had deemed, on page 4 of the Office Action, "an XF Conversion Script is a master style template which contains ... a plurality of service templates," citing *para.* 102 of Richard, the Examiner essentially argued that Richard uses service templates to create service templates. Irrespective of the Examiner's circular reasoning, Richard does not *create* new service templates using one or more blocks of data *selected* from the master style template. It is therefore clearly and factually incorrect to equate Richard's XF conversion script with the claimed master style template.

The same factual and legal deficiencies are also clearly evident in the Examiner's rejection as to Claim 10. For example, the cited paragraphs 77-81 of Richard fail to describe "selecting presentation formats from the master style template based on the identified name-value pairs in the service data." The Examiner did not give any explanation. Moreover, like Claim 1, Claim 10 specifically recites two different types of templates: 1) a master style template containing presentation information that can be used to generate service templates and 2) service templates created using the presentation information *selected* from the master style template. The Examiner failed to distinguish these two different types of templates in the rejections.

Claim 19 was rejected for the same reasons set forth for Claim 1. Thus, the same factual and legal deficiencies in the rejection for Claim 1 are also evident in the rejection for Claim 19.

The rejection for Claim 22 appears to be the same as the rejection for Claim 1. Thus, the same factual and legal deficiencies in the rejection for Claim 1 are also evident in the rejection for Claim 22. To anticipate Claim 22, Richard must describe each and every element as set forth in Claim 22, including "analyzing data pertaining to a service to *configure* a master style template." The Examiner's rejection, citing Fig. 4 and paragraphs 54 and 58 of Richard, improperly omitted the term "configure" and the limitation "configure a master style template." The rejection also omitted the term "selected" as recited in "generating a plurality of data conversion templates using presentation formats *selected* from the master style template." The cited paragraphs 38-54 and 76-81 of Richard fail to describe generating a second kind of templates (i.e., data conversion templates) using style information (i.e., presentation formats) *selected* from a first kind of template (i.e., the master style template). Thus, the Examiner's rejection was factually and legally deficient.

The rejection for Claim 25 appears to be the same as the rejection for Claim 1. Thus, the same factual and legal deficiencies in the rejection for Claim 1 are also evident in the rejection for Claim 25. To anticipate Claim 25, Richard must describe each and every element as set forth in Claim 25, including "not displayable service data to be delivered to one or more target devices or classes of devices." The Examiner's rejection, citing Fig. 4 and paragraphs 54 and 58 of Richard, improperly omitted this limitation. There was no

explanation on whether and how Richard's heterogeneous data anticipates the claimed non-displayable service data. The rejection also omitted, among others, the limitation of "generating a plurality of target-specific data conversion templates using one or more building blocks selected from a master style template." The cited paragraphs 54, 60, and 76-81 of Richard fail to describe *generating* a second kind of templates (i.e., target-specific data conversion templates) using one or more building blocks (e.g., presentation capability of a plurality of devices and classes of devices) *selected* from a first kind of template (i.e., the master style template). Thus, the Examiner's rejection was factually and legally deficient.

Richard is concerned with standardizing heterogeneous input data having different markup formats and tree structures. Whether the heterogeneous input data from Tier 4 (e.g., a web page) is displayable on a device at Tier 1 (e.g., a client computer) is not germane to Richard's invention. Specifically, the manner in which the information is physically displayed on the screen of the person requesting it is performed at the level of the client station (Richard, *para.* 59). In contrast, the manner in which data for a selected service is presented, as well as information on the presentation capabilities of the client devices, is defined in the master style template as building blocks to be used to create target-specific data conversion templates at the conversion level (Spec. *para.* 40). As submitted in the previous Replies filed August 3, 2004, April 6, 2005, September 21, 2005, and March 3, 2006, the claimed master style template may follow a predetermined style and contain building blocks designed to assist in displaying data according to this style for a plurality of device types. Since the claimed target-specific data conversion templates are *created, generated, or otherwise constructed* using one or more building blocks *selected* from the master style template, each target-specific data conversion template can convert non-displayable service data into a specific format suitable for display on the specific target device.

In view of the foregoing, Applicant respectfully requests a review of the legal and factual basis of the rejections.